

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

JOSEPH SCALI,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/2/2020

No. 16-CR-466 (NSR)

ORDER

NELSON S. ROMÁN, United States District Judge:

WHEREAS on March 29, 2020, Defendant Joseph Scali (“Mr. Scali”) filed a notice of appeal of his judgment of conviction. (ECF No. 249);

WHEREAS the appeal of Mr. Scali’s conviction remains pending;

WHEREAS on April 10, 2020, Mr. Scali moved for compassionate release pursuant to 18 U.S.C. § 3582(c). (ECF No. 272);

WHEREAS on April 20, 2020, the Court denied Mr. Scali’s motion without prejudice to renew. (ECF No. 277);

WHEREAS, on April 29, 2020, Mr. Scali renewed his motion for compassionate release. (ECF Nos. 278, 287, 289, 291);

WHEREAS on May 13, 2020, the Government filed an opposition. (ECF Nos. 286, 290, 293);

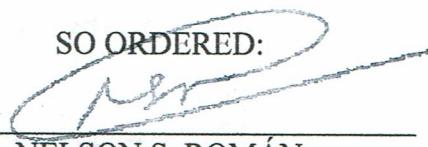
WHEREAS on July 1, 2020, the Court held a telephonic hearing to address the parties’ arguments;

IT IS HEREBY ORDERED THAT Mr. Scali’s motion for compassionate release is DENIED for lack of jurisdiction. Because the filing of a notice of appeal “confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal,” *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982), this

Court lacks jurisdiction to modify Mr. Scali's sentence. *See United States v. Ransom*, 866 F.2d 574, 575–76 (2d Cir. 1989) (the filing of a notice of appeal does not permit the “substantive modifications of judgments” in criminal cases); *United States v. Martin*, No.18-CR-834, 2020 WL 1819961, at *2 (S.D.N.Y. Apr. 10, 2020) (“Once [defendant] filed his notice of appeal challenging the Court’s sentence, jurisdiction over the question raised in his § 3582(c) motion transferred to the Second Circuit.”).

Dated: July 2, 2020
White Plains, New York

SO ORDERED:


NELSON S. ROMÁN
United States District Judge